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Attorneys for Defendants City of South San Francisco,  
South San Francisco Police Department, and  
Mark Raffaelli

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HOWARD ZIMMERMAN and WILLIAM  
CARTER,

Plaintiffs,

v.

CITY OF SOUTH SAN FRANCISCO,  
SOUTH SAN FRANCISCO POLICE  
DEPARTMENT, MARK RAFFAELLI, and  
DOES 1 through 10, inclusive,

Defendants.

Case No. C073623 WHA

**STIPULATION AND PROTECTIVE  
ORDER**

Complaint Filed: July 13, 2007

Subject to the approval of this Court, the parties do hereby stipulate to the following protective order:

1. City of South San Francisco Police Department personnel files of plaintiffs Howard Zimmerman and William Carter and any other present or former employee of South San Francisco disclosed in this action are to be designated as "Confidential Material." Any documents discussing the qualifications of plaintiffs or any other employee of City of South San Francisco for promotion shall also be designated as "Confidential Material." Such designation shall be made by stamping or otherwise marking the material prior to use in this litigation as follows: "Confidential Material Subject to Protective Order." Any reference to material contained in the personnel file of any present or former employee of the City of South San Francisco which is revealed in interrogatory answers or otherwise

1 during discovery in this matter will also be deemed "Confidential Material."

2 2. Confidential Material shall be used solely in connection with this litigation and  
3 the preparation and trial of this case, or any related appellate proceeding, and not for any  
4 other purpose, including any other litigation.

5 3. Confidential Material may not be disclosed except as set forth in paragraph 4.

6 4. Confidential Material may be disclosed only to the following persons:

7 a. Counsel for any party to this action;

8 b. Paralegal, stenographic, clerical and secretarial personnel regularly  
9 employed by counsel referred to in 4(a);

10 c. Court personnel including stenographic reporters engaged in such  
11 proceedings as are necessarily incidental to preparation for the trial of this action;

12 d. Any outside expert or consultant retained in connection with this action,  
13 and not otherwise employed by either party;

14 e. Any "in house" expert designated by defendant to testify at trial in this  
15 matter;

16 f. Witnesses, other than the plaintiffs herein, who may have the  
17 documents disclosed to them during deposition proceedings. The witnesses may not leave  
18 the deposition with copies of the documents, and shall be bound by the provisions of  
19 paragraph 5;

20 g. Any Neutral Evaluator or other designated ADR provider; and

21 h. Parties to this action

22 Nothing in this paragraph is intended to prevent Plaintiffs, officials, or employees of  
23 the City of South San Francisco or other authorized government officials from having  
24 access to the documents if they would have had access in the normal course of their job  
25 duties. Further, nothing in this order prevents a witness from disclosing events or activities  
26 personal to him or her, i.e., a witness can disclose to others previous information given to  
27 the City of South San Francisco with respect to what she/he saw, heard, or otherwise  
28 sensed.

1           5. Each person to whom disclosure is made, with the exception of counsel who  
2 are presumed to know of the contents of this protective order, shall, prior to disclosure:  
3 (1) be provided a copy of this order by the person furnishing him/her such material, and  
4 (2) agree on the record or in writing that she/he has read the protective order and that  
5 she/he understands the provisions of the protective order. Signing a copy of this protective  
6 order shall be a sufficient indication that the person has reviewed the protective order.  
7 Such person must also consent to be subject to the jurisdiction of the United States District  
8 Court in the Northern District of California with respect to any proceeding relating to the  
9 enforcement of this order. Defendant City of South San Francisco shall be entitled to retain  
10 possession of the original confidential materials described above.

11           6. At the conclusion of the trial and of any appeal or upon other termination of  
12 this litigation, all Confidential Material received under the provision of this order (including  
13 any copies made) shall be tendered back to the City of South San Francisco. Provisions of  
14 this order insofar as they restrict disclosure and use of the material shall be in effect until  
15 further order of this court.

16           7. Any document filed with the court that reveals Confidential Material shall be  
17 filed under seal, labeled with a cover sheet as follows: "ZIMMERMAN et al., Plaintiff, v.  
18 CITY OF SOUTH SAN FRANCISCO, Case No. C073623 WHA. This document is subject  
19 to a protective order issued by the court and may not be copied or examined except in  
20 compliance with that order." Documents so labeled shall be kept by the Clerk under seal  
21 and shall be made available only to the court or counsel. Upon failure of the party to so file  
22 a document under seal, the producing party may request that the court place the filing  
23 under seal.

24           8. Nothing in this order shall preclude a party from showing or disclosing any  
25 documents, e.g., deposition transcript, pleading or brief, which otherwise contains  
26 Confidential Material as defined in paragraph 1, as long as such document has been  
27 redacted so as to prevent disclosure of such Confidential Material.

28           9. The foregoing is without prejudice to the right of any party; (a) to apply to the

1 court for a further protective order relating to any Confidential Material or relating to  
2 discovery in this litigation; (b) to apply to the court for an order removing the Confidential  
3 Material designation from any documents; and (c) to apply to the court for an order  
4 compelling production of documents or modification of this order or for any order permitting  
5 disclosure of Confidential Materials beyond the terms of this order.

6 Dated: October 26, 2007

MEYERS, NAVE, RIBACK, SILVER & WILSON

7  
8 By: 

9 Samantha W. Zutler  
10 Attorney for Defendants  
City of South San Francisco

11 Dated: October 29, 2007

LAW OFFICES OF DANIEL M. CRAWFORD

12  
13 By: 

14 Dan Crawford  
15 Attorney for Plaintiffs  
Howard Zimmerman and William Carter

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17  
18  
19 **ORDER**

20 The Court has considered the foregoing stipulation of the parties. Good cause  
21 appearing therefor, the Court hereby orders that the above-described Confidential Material  
22 shall be subject to a protective order fully incorporating the provisions set forth above.

23 PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

24  
25 Dated: \_\_\_\_\_

26 Hon. William Alsup  
27 UNITED STATES DISTRICT COURT JUDGE